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IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF

Report submitted by Mr. Abdelfattah Amor, Special Rapporteur, in accordance with Commission on Human Rights resolution 1995/23

Addendum

Visit by the Special Rapporteur to the Islamic Republic of Iran

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Introduction

1. From 15 to 22 December 1995, the Special Rapporteur on the question of religious intolerance made a visit to the Islamic Republic of Iran under his terms of reference and at the invitation of the Iranian Government.

2. He went to Tehran (15 to 18 and 20 December), Tabriz (19 December) and Isfahan (21 December). He had consultations with representatives of the authorities and representatives of minorities and with a number of private individuals. He interviewed the Minister for Foreign Affairs, the Minister of Justice, the Deputy Minister of Legal and International Affairs in the Ministry of Foreign Affairs, the Deputy Minister of Education, the Deputy Minister of Cultural Affairs in the Ministry of Culture and Islamic Guidance, the Director of the Office of Minority Affairs in the Ministry of Culture and Islamic Guidance, the President of the Revolutionary Courts in the Ministry of Justice and the Adviser to the President on Sunni religious affairs. He also met with religious, social and political representatives of the Christian, 1/ Jewish, Zoroastrian and Sunni minorities, as well as with representatives of the Baha'is. He also met the President of the Parliamentary Human Rights Committee and the Islamic Human Rights Commission. He spoke in private with Mrs. Batoul Vaferi, Mrs. Maryam Shabazpour and Mrs. Farahnaz Anami, who were convicted of the murder of pastors and held in Evin prison. He also visited many places of worship, community centres and minority schools.

3. The Special Rapporteur would like to thank the Iranian authorities for having invited him and attaches symbolic importance to this first visit to Iran as Special Rapporteur on the question of religious intolerance. In this connection, he welcomes the efforts made by the Government of Iran and its willingness to cooperate with him during his mission. He is also very grateful to the various persons with whom he met when preparing and making the visit.

4. The Special Rapporteur closely studied the current situation with regard to religious freedom in the Islamic Republic of Iran in the light of legislation in the field of tolerance and non-discrimination based on religion or belief, its implementation and current policies.

I. LEGISLATION IN THE FIELD OF TOLERANCE AND NON-DISCRIMINATION BASED ON RELIGION OR BELIEF

A. Constitutional provisions and concerns of the Special Rapporteur

1. Islamic criteria provided for by the Iranian Constitution

5. According to article 4 of the Constitution, "all civil, criminal, financial, economic, administrative, cultural, military, political and other laws and regulations must be based on Islamic criteria. This principle applies generally to all articles of the Constitution, as well as to the other laws and regulations, and the fuqaha' of the Guardian Council take decisions in this regard".

6. The Special Rapporteur said that he was concerned because there was no definition of Islamic criteria, on the one hand, or of non-Muslim religious criteria, on the other. In this connection, the authorities indicated that reference was being made to the establishment of an Islamic regime based on the will of the people. They also pointed out that every legal system was a reflection, even implicitly, of the religious principles of the majority of the population. With regard to non-Muslim religions, the government representatives said that it was the duty of the State to guarantee minority rights, which were protected by the Constitution and by recognition of the right of each minority to apply religious law to personal and community affairs. It was stressed that Islam was a religion of tolerance. As to the lack of a constitutional definition of Islamic criteria, it was explained that the Constitution established a framework and the laws defined the principles contained therein. The authorities admitted that greater precision should be achieved through legislation.

2. Official religion

7. According to article 12 of the Constitution, "The official religion of Iran is Islam and the doctrine, that of the Twelver Ja'fari school [in usūl al-Din and fiqh], and this principle will remain eternally immutable. Other Islamic schools, including the Hanafi, Shāfi'i, Māliki, Hanbali, and Zaydi, are to be accorded full respect, and their followers are free to act in accordance with their own jurisprudence in performing their religious rites. These schools enjoy official status in matters pertaining to religious education, affairs of personal status (marriage, divorce, inheritance, and wills) and related litigation in courts of law. In regions of the country where Muslims following any one of these schools of fiqh constitute the majority, local regulations, within the bounds of the jurisdiction of local councils, are to be in accordance with the respective school of fiqh, without infringing upon the rights of the followers of other schools."

8. Stressing that the concept of a State religion is not in itself contrary to human rights, the Special Rapporteur explained that that fact must not be exploited at the expense of the rights of other religions. He noted that there was no reference to the Ismaili Shiites and the Ahl-e-Hagh Muslim community in western Iran.

9. The authorities indicated that the Constitution was not a catalogue of religions and that recognition of the special status of some religions and religious communities must not be interpreted as discrimination against others.

3. Situation of minorities

10. According to article 13 of the Constitution, "Zoroastrian, Jewish and Christian Iranians are the only religious minorities who, within the limits of the law, are free to perform their religious rites and ceremonies and to act according to their own canon in matters of personal affairs and religious education".

11. In accordance with article 14 of the Constitution, "The Government of the Islamic Republic of Iran and all Muslims are duty bound to treat non-Muslims in conformity with equitable norms and the principles of Islamic justice and equity and to respect their human rights. This principle applies to all who refrain from engaging in conspiracy or activity against Islam and the Islamic Republic of Iran."

12. Article 26 of the Constitution provides that: "The formation of parties, societies, political or professional associations, as well as religious societies, whether Islamic or pertaining to one of the recognized religious minorities, is permitted, provided the they do not violate the principles of independence, freedom and national unity, the criteria of Islam or the basis of the Islamic Republic. No one may be prevented from participating in the aforementioned groups or be compelled to participate in them."

13. According to article 64 of the Constitution, "There are to be 270 members of the National Consultative Assembly. After every 10 years, in case of an increase in the country's population, representatives will be added to each constituency at the rate of 1 per 150,000 additional persons. The Zoroastrians and Jews will each elect one representative; Assyrian and Chaldean Christians will jointly elect one representative; and Armenian Christians in the north and those in the south of the country will each elect one representative. If the population of these minorities increases, after every 10 years, they will be given additional representation at the rate of 1 per 150,000. Regulations concerning elections will be determined by law."

14. Article 67 of the Constitution relating to the oath taken by members of the National Consultative Assembly provides that the representatives of religious minorities swear on their own holy books.

15. According to article 144 of the Constitution, "The Army of the Islamic Republic of Iran must be an Islamic army, i.e. committed to Islamic ideology and the people, and must recruit into its service individuals who have faith in the objectives of the Islamic Revolution and are devoted to the cause of achieving its goals." Article 163 of the Constitution also provides that "The conditions and qualifications to be fulfilled by a judge will be determined by law in accordance with the criteria of figh."

16. In reply to the Special Rapporteur's requests for information about minority rights, the authorities drew attention to the recognized rights of minorities provided for in article 13 of the Constitution, especially the right to worship, religious education and family traditions, as well as the right to representation in Parliament (arts. 64 and 67 of the Constitution) and the free exercise of their cultural, social and religious activities within the framework defined by the State. The authorities often used the term "privilege" in referring to minorities, particularly their representation in Parliament even though they are fewer in number than required by the Constitution. In reply to the Special Rapporteur's requests for explanations about the use of the term "privilege", the authorities said that they meant recognized rights of minorities.

17. With regard to the access of members of recognized minorities to the army and the judiciary, the Minister for Foreign Affairs said that, for political and national reasons and in order to be sure of the loyalty of their officials, all countries had special requirements for access to posts in the army and intelligence services. Other government officials said that there was no discrimination against minorities in respect of access to the civil service.

18. In reply to the Special Rapporteur's concerns about the restrictive recognition of the three minorities referred to in article 13 of the Constitution and the lack of official recognition of the Baha'is, in particular, it was stated that the privileges granted to the recognized minorities could not be extended to all. It was also recalled that a lack of recognition did not mean an absence of rights or the existence of a prohibition or discrimination.

19. It was stated that, as Iranian citizens, non-Muslims who did not belong to recognized minorities enjoyed the same rights as any other citizen, as stipulated, in particular, in article 14, article 22 ("The dignity, life, property, rights, residence and occupation of individuals are inviolable, except in cases provided for by law") and article 23 ("The investigation of opinions is prohibited and no one may be attacked or reprimanded for his opinions") of the Constitution.

20. It was pointed out that the Baha'is are not a religious minority, but a political organization which was associated with the Shah's regime, is against the Iranian Revolution and engages in espionage activities. It was nevertheless stated that, as individuals, all Baha'is, were entitled to their beliefs.

B. Other legal provisions and concerns of the Special Rapporteur

Conversion

21. With regard to recognition of the right to change religion, the government representatives said that article 18 of the Universal Declaration of Human Rights expressly recognized conversion, that the Islamic countries had expressed reservations about it and that article 18 of the International Covenant on Civil and Political Rights did not refer to conversion. It was stated that, under the Civil Code, conversion was not a crime and that no one had been punished for converting, as shown by the case of Pastor Dibaj, a converted Muslim who was sentenced to death for apostasy, but whose sentence was reviewed.

22. As to conversion, the Special Rapporteur draws attention to general comment 22 (48), on "freedom 'to have or to adopt' a religion or belief", which was drawn up by the Human Rights Committee on 20 July 1993. The full text of the comment is contained in chapter III on "Conclusions and recommendations" (para. 92).

II. IMPLEMENTATION OF LEGISLATION AND POLICY IN THE FIELD OF TOLERANCE AND NON-DISCRIMINATION BASED ON RELIGION OR BELIEF

A. Situation of recognized religious minorities

23. The Special Rapporteur focused on the situation of the non-Muslim minorities recognized in article 13 of the Constitution, i.e. Zoroastrians, Jews and Christians, and on that of the Sunni Muslim minority.

24. As far as Christians are concerned, the Special Rapporteur deals specifically with Protestants, a recognized minority, in section B of this chapter entitled "Situation of other non-Muslim minorities" (paras. 71 to 85 below), since the situation of this community is basically quite different from that of the other recognized minorities.

1. Non-Muslim minorities

25. In his analysis, the Special Rapporteur combined the information on the Zoroastrian, Jewish, Assyro-Chaldean and Armenian minorities, while taking care to reflect the specific concerns of each one. During his visit, he tried to obtain facts and figures on these minorities from their representatives and the authorities, particularly the Office of Minority Affairs in the Ministry of Culture and Islamic Guidance.

Minorities	Information from representatives of minorities	Information from the Office of Minority Affairs
Zoroastrians	about 60 000	33 000 to 34 000
Jews	30 000 to 40 000 (before the revolution, 70 000)	20 000 to 25 000
Assyro-Chaldeans	40 000 - 50 000	about 17 000
Armenians	about 200 000 (15 years ago)	about 100 000

26. The figures provided by minority representatives and the authorities are quite different, probably because the minorities use figures prepared before the revolution, while the authorities appear to refer to official numerical representation at the present time. The difference reflects the departure of large numbers of members of minorities for other countries. The minority representatives associate this emigration with, inter alia, the Iran-Iraq war and the difficult economic situation. While many representatives do not deny that departures took place as a result of the Iranian revolution and the establishment of an Islamic State, they stress that pressure was not exerted directly by the regime, but, rather, by foreign countries which perceived the revolution negatively, particularly with regard to the minorities, and urged them to leave Iran.

27. The authorities recognized that there were many departures by members of minorities and by Muslims. It was stated that the situation was not the result of government pressure, but of voluntary departures by anyone who considered that his education and values could not be adapted to the principles of the revolution, including the establishment of a dress code for women. The situation thus did not affect minorities only.

28. According to unofficial information, minorities and non-Muslim communities (including the Baha'is) account for about 1 per cent of a population composed of a majority of Muslims (about 89 per cent Shiites and 10 per cent Sunni).

(a) In the religious field

(i) Religious practice and conduct of religious affairs

29. Minority religious, political and social representatives stated that they were not subjected to any interference by the authorities in their internal religious activities, which could be exercised freely, particularly with regard to worship and religious traditions and the management of the affairs of religious institutions.

30. Except for the Zoroastrians, who are composed ethnically of Persians using the Persian language, minority representatives said that the use of the Persian language during religious services could not be regarded as an option because, according to their religious tradition, the language used during religious services must be that of their community (Hebrew, Aramaean, Armenian) or, in more general terms, their original ethnic group. In that connection, the Deputy Minister of Cultural Affairs in the Ministry of Culture and Islamic Guidance said that those minorities wanted to use their own language for religious services and that they had been granted that right by the authorities, who would have no objection to the use of Persian if the minorities requested it.

31. In connection with proselytism and conversion, the minority representatives explained that Islam, as interpreted by the Iranian Government, did not allow the proselytism and conversion of a Muslim to another religion and that they themselves (Jewish, Assyro-Chaldean and Armenian minorities) did not engage in those practices and did not want them, since their communities were specific religious and ethnic minorities and their own religious institutions were working to preserve their cultural and religious identities and, thus, their maintenance as Jewish, Assyro-Chaldean and Armenian communities. The minorities also said that they were not subjected to proselytism and attempts to convert them to Islam.

(ii) Religious instruction

32. The minority representatives said that the teaching of their religion was guaranteed and respected in public schools (or outside school hours when there were not enough minority children for a religious instruction class) and in minority schools. They stressed that no Muslim religious instruction was imposed on them and that their own religious education was compulsory and given a mark in the school report card. Religious instruction was given by

minority teachers (national education teachers or persons paid by the minorities) on the basis of textbooks prepared and funded by the Ministry of Education in cooperation with the minorities. The textbooks relate to the teaching of the religion of the minority in question and also contain information on other religions and their common principles. The Assyro-Chaldeans said that they would like to be more involved in the preparation of textbooks containing information common to all religions.

(iii) Religious publications

33. The minority representatives explained that all publications, no matter who the authors were, were submitted to the authorities for verification and authorization. While recognizing that this procedure did not apply only to them, they expressed regret about its cost, which resulted from the need to translate publications originally written in their minority language into Persian and the amount of time required to obtain official approval. The Government representatives said that this procedure applies to all Iranian citizens and was intended primarily to guarantee respect for religions and to prevent any attempts to undermine religious values. The authorities also recalled that the Government could contribute financially to the publication of religious books.

(iv) Places of worship

34. The minority representatives said that they had enough places of worship and that they could renovate them and build new ones. Places of worship are financed by the communities concerned. However, when these places of worship were classified as historical monuments, the State provided financial assistance for their maintenance or renovation, as in the case of the Vank Armenian Church in Isfahan and the Zoroastrian temples of fire in Yazd.

35. The minorities said that places of worship had been closed not as a result of pressure from the authorities, but because there were not enough worshippers in some villages or regions owing to the departure of minorities. With regard to access to the places of worship of converted Muslims, the minorities reaffirmed their position on proselytism and conversion ("Religious practice and conduct of religious affairs", paras. 29 to 31 above).

(b) In the political field

36. The minority representatives confirmed that they had representatives in Parliament in accordance with article 64 of the Constitution. The Minister for Foreign Affairs pointed out that these minorities had representatives, even though they did not all comply with the requirement laid down by the Constitution, namely, one representative for every 150,000 persons. In this connection, the authorities consider that the rights of non-Muslims in Iran are greater than those of Muslims in other countries, particularly European countries. The Armenian minority said that it was able to carry out community political activities such as the commemoration of the 1915 Armenian genocide, which is celebrated on 24 April every year by authorized street demonstrations involving 50,000 persons or more.

(c) In the socio-cultural field

37. The minority representatives explained that, according to the Constitution, the Government recognized their right to apply their religious law in respect of their personal affairs (marriage, inheritance, etc.) and their community affairs. It was stated that, in some cases and in some situations, it had had to be decided whether it was appropriate or lawful for the Shari'a to be applied to non-Muslims, for example, when rulings by public courts conflicted with a minority's religious law. In some cases, the Guardian Council had ruled in the minority's favour.

38. The Islamic principles established by the Iranian Government in connection, inter alia, with the Islamic dress code, the separation of the sexes for sports activities and the prohibition on alcohol consumption apply to minorities in public life. According to their traditions and values, however, minorities are exempt from these principles in private life, including the home and community centres. This explains why the authorities prohibit access to community centres by Muslims (who have to obey the above-mentioned principles), except on special occasions, such as sporting events.

39. As far as socio-cultural activities are concerned, minorities have community centres and cultural (newspapers, for example), social, sports and charitable associations (retirement homes, hospitals), which they finance themselves. The Deputy Minister of Cultural Affairs in the Ministry of Culture and Islamic Guidance stated that these activities were carried out unrestrictedly within the framework defined by the State. Particular attention was drawn to the active participation of minorities in the cultural field (painting, cinema, music, theatre) and their key contribution to the Iranian heritage (places of worship classified as historical monuments). The authorities also encourage publications, films and radio and television programmes on minorities and their culture and religion in connection with work done by Muslims and non-Muslims.

40. The comments made by the authorities and minorities on religious publications (para. 33) also apply to publications in general. Minorities sometimes have problems when the content of their publications, including those of a historical nature, relates to sensitive issues such as the conversion of Muslims to another religion.

(d) In the field of education

41. Minority children can choose between public schools and minority schools supervised by the Ministry of Education, which draws up curricula and finances national education staff and school textbooks, including religious instruction textbooks. Minorities, which are the legal owners of the buildings, finance the maintenance of premises and take part in the purchase and maintenance of school equipment through private donations and donations from parents and religious institutions.

42. The Islamic criteria relating to the dress code and the separation of the sexes are applicable, but this causes the minorities a serious problem because these schools belong to them in principle. The Jewish minority wanted the

Sabbath to be observed in its schools, with parliamentary approval, despite the objections of experts from the Ministry of Education. Apart from some cases observed during the visit, the directors of these schools have to be Muslim, contrary to the wishes of the minorities, who do not, however, object to the presence of non-minority teachers. All these problems have given rise to discussions between minorities and authorities and raise the question whether such schools should be public or private, as the minorities would like.

43. With regard to universities, no information referred to problems of access for minority students or teachers. Applicants to universities are tested on their religious knowledge. There is a chair of Armenian studies at the University of Isfahan.

(e) In the professional field

44. In addition to lack of access to government posts, minorities do not have professional access to the army and the judiciary (administration) 2/ and are limited in their career development to the rest of the administration, save in exceptional cases. In the private sector, minorities do not seem to have any problems, except in specific and personal cases not connected with the authorities. However, non-Muslim owners of grocery shops are required to indicate their religious affiliation on the front of their shops.

(f) Other fields

45. In the field of justice, especially at the lower levels of public courts, minority plaintiffs are usually discriminated against by judges, who treat them as members of a minority and not as Iranian citizens, applying their brand of Islam and taking decisions that are very often in favour of Muslims.

46. In referring to the question of non-Muslim minorities, the minority representatives stressed the following fact: they do not want their situation to be used against them and manipulated by other countries for reasons that have nothing to do with them, such as political strategies against Iran. They emphasized the importance and usefulness of the dialogue between minorities and authorities as a way of reaching short-term, medium-term and long-term agreements, compromises and solutions. They also requested that their situation should be dealt with objectively at the international level.

2. Sunni Muslim minority

47. The Special Rapporteur was unable to obtain official figures on the numerical size of the Sunni minority. The Sunni representatives estimate that they represent about 10 per cent of the Iranian population.

(a) In the religious field

48. The Sunni representatives said that they were not subjected to any interference in the form of restrictions by the authorities of their religious activities. They drew attention to their status as a legally recognized

minority and to the rights deriving from such recognition, as provided for in article 13 of the Constitution, in particular, freedom to organize worship according to their laws, religious teachings and customs.

49. The Sunni representatives said that their religious instruction is specifically suited to their beliefs and that information on other religions was also provided. The Deputy Minister of Education said that Sunni teachers took part in the preparation of religious textbooks.

50. With regard to places of worship, the Special Rapporteur was informed that there was no Sunni mosque in Tehran, even though the Sunni community would like to finance the construction of its own place of worship. As a result of that situation, Sunni worshippers now go to a Pakistani school and a Saudi club in Tehran for prayers. The Deputy Minister of Justice recalled that, according to Islam, any Muslim could pray in any Muslim place of worship, whether he was Shiite, Sunni or of another denomination. The Deputy Minister of Legal and International Affairs said that there was no legal prohibition on the construction of Sunni places of worship, that the Sunni community was few in number in Tehran and that it had no difficulty in praying in Shiite mosques.

51. Referring to information that a Sunni place of worship had allegedly been destroyed in Mashhad as part of an urban development programme, the Sunni representatives and the authorities indicated that a discussion had been held to determine whether it had been a mosque or a caravanserai. It finally turned out that there had been no mosque, but that there were plans to build one. The authorities also offered some land for the construction of a Sunni mosque. The Government representatives said that Shiite and Sunni mosques in Iran had been destroyed for the good of the population as part of urban development plans and that the Sunni community had many mosques in Iran.

52. The Adviser to the President on Sunni religious affairs emphasized that there was no religious conflict between Shiites and Sunnis and said that there were sometimes problems of smuggling and terrorism on Iran's borders. He drew attention to the presence of ultra-fanatic Sunnis, a problem that affected all religions. He also said that there were no suspicions against the Sunnis, especially because of their loyalty to the regime. The official representatives said that they did not want the Sunni question to be used for political purposes against Iran.

(b) Other fields

53. The Sunni representatives said that they did not encounter any obstacles by the authorities in the political, socio-cultural, educational, professional or other fields.

B. Situation of other non-Muslim minorities

54. The Special Rapporteur has given attention to the situation of both the Baha'is and the Protestants.

1. Situation of the Baha'is

55. The Special Rapporteur has no official figures concerning the size of the Baha'i community. Baha'i representatives and other non-governmental bodies estimate the number of Baha'is in Iran at 300,000, which, numerically, makes them the largest minority in Iran.

(a) In the religious field

(i) Recognition of religious minority status

56. The authorities stated that they do not recognize the Baha'is as a religious minority. The Baha'i organization has been defined as a political sect historically linked to the Shah's regime and, hence, as counter-revolutionary and characterized by its espionage activities for the benefit of foreign entities, particularly Israel. During his various interviews, the Special Rapporteur noted an almost instinctive rejection with regard to the Baha'i community.

57. The authorities indicated that only the religious dignitaries could decide on the possibility of granting religious minority status to the Baha'is. Moreover, the privileges granted to recognized religious minorities could not be extended to all. However, non-recognition of that status did not signify deprivation of rights. In that regard, with the exception of the Baha'i organization as defined above, the authorities pointed out that every Baha'i benefited from all the recognized rights of Iranian citizens, particularly the right to freedom of belief, and, according to the Constitution, no one could be attacked or reprimanded for his opinions and the rights of citizens must be protected regardless of their ideas and convictions. The Baha'i representatives refuted the accusations directed against their organization. They pointed out that, according to the fundamental principles of their religion, Baha'is should show loyalty and obedience to their Government and should refrain from any political involvement. The Baha'is indicated that the accusations of espionage in favour of zionism were based solely on the fact that the Baha'i World Centre was in Israel. They pointed out that this centre was established on Mount Carmel in the last century, before the establishment of the State of Israel, in accordance with the explicit instructions of Baha'ullah, the founder of the Baha'i faith, who had lived there in exile after being banished from Persia. The Baha'i representatives emphasized their strict commitment to a religious belief - the Baha'i faith - and the fact that they constituted a religious minority.

(ii) Religious activities

58. With regard to the information from governmental sources concerning respect for the rights of Baha'i citizens and, in particular, freedom of belief, the Baha'i representatives and other members of non-governmental bodies emphasized that the Baha'i community was being subjected to a policy of repression: in particular, they had an official document, issued by the Supreme Cultural Council of the Revolution, setting forth the directives

concerning the Baha'i question, including the stipulation that "the measures taken by the Government against the Baha'is should be designed to obstruct their evolution and development".

59. In the religious field, the Baha'i representatives and other non-official persons noted that the right to profess and practise the Baha'i faith had been denied. Since 1983, the Baha'i organization had apparently been prohibited by the Government, as a result of which the Baha'is had been denied the right to meet and to elect and operate administrative institutions. Since, by virtue of its fundamental principles, the Baha'i faith had no clergy, the very existence of the Baha'is as a viable religious community was apparently being threatened in the absence of those institutions. According to the same sources, the authorities had also confiscated Baha'i communal property, particularly since 1979, and Baha'i holy places had been desecrated and, in numerous cases, destroyed.

60. According to the same sources, the Baha'i cemeteries had been bulldozed and their tombs ransacked. However, the President of the Islamic Commission on Human Rights stated that this information was false and erroneous. He indicated that, in some cases, cemeteries had been demolished for health reasons and this applied to both Baha'i and Muslim tombs. In his view, those rumours were politically motivated. The Baha'i community was apparently also having difficulty in burying its dead and identifying the location of tombs. It was allowed to use only waste ground for burials and was forbidden to erect inscribed gravestones. The Baha'i representatives also said that pressure was being brought to bear on them with a view to securing their conversion to Islam by depriving them of freedom, of means of subsistence, of their personal property and of the possibility of studying at universities.

(b) <u>In the socio-cultural field</u>

61. Being denied the status of a recognized religious minority, the Baha'is cannot enjoy the rights associated with that recognition such as, in particular, political representation and the application of their religious law in their personal affairs and in those of their community. In response to the authorities' affirmations concerning the rights of the Baha'is as Iranian citizens (see above, paras. 10 to 20, "Minorities" and paras. 28 to 32, "In the religious field"), the Baha'i representatives drew attention to the policy of repression to which they were being subjected, including the ban on their organization and the confiscation of their property: all the community's property, and particularly the property of the Baha'i social institutions serving the members of all religions, had allegedly been expropriated by the State.

62. Personal property, including residential premises, of the Baha'i community has also allegedly been confiscated. Baha'i marriages and divorces are not legally recognized and their right of succession is not respected. With regard to freedom of movement, including departure from the country and the issue of passports or exit visas, all Baha'is without exception face major obstacles. It should be noted that the religious affiliation must be specified on the passport application form.

(c) In the educational field

63. The Deputy Minister of Education said that respect for the law and involvement in wholesome activities were the only conditions for access to university education. He indicated that access by the Baha'is to higher education should not pose a problem provided that the Baha'is did not flaunt their beliefs in educational institutions. The Baha'i representatives emphasized that, since 1980, young Baha'is had been systematically excluded from higher educational institutions. Erosion of the standard of education was seriously affecting the Baha'i community. The directives of the Supreme Cultural Council of the Revolution concerning the level of education were quoted: "They can enrol in schools provided that they do not declare their Baha'i identity. Preferably, they should enrol in schools with a strong and impressive religious ideology. They should be expelled from the universities, either at the time of the admission procedure or during their studies, as soon as it becomes apparent that they are Baha'is". The Baha'i representatives indicated that, in accordance with the fundamental principles of their faith, they did not engage in proselytism, but, if questioned, would acknowledge their religious affiliation and could give explanations concerning their faith.

(d) In the professional field

64. The Baha'is who were interviewed said that they were strongly discriminated against in the field of employment. Baha'is had no access to posts in the administration unless they converted to Islam. Their candidature would be rejected as soon as they filled in the questionnaire in which religious affiliation had to be specified. Moreover, in the early 1980s, about 10,000 Baha'is had apparently been dismissed from their posts in the administration and in the teaching profession because of their religious faith. Many had remained jobless and without unemployment benefits. Pensions were no longer paid to Baha'is who had been dismissed for religious reasons. Some who had been dismissed from their posts had even been required to reimburse the salaries or pensions received. A circular from the Ministry of Labour and Social Affairs (No. 20361, dated 16/9/1360 A.H.) stipulated that: "The penalty incurred by those who belong to any of the misguided sects recognized by all Muslims as heretical deviations from Islam, or to organizations whose doctrine and constitution are based on rejection of the divinely-revealed religions, shall be permanent dismissal from public office ... and also from organizations that can be classed as governmental associations or offices ...".

65. In the private sector, the Baha'is were also seriously affected. In the early 1980s, the licences of Baha'i tradesmen had been withdrawn and the assets of enterprises managed by Baha'is had been confiscated. The confiscation of personal property applied not only to businesses and enterprises, but also to agricultural property. Pressure had also been exerted in the private sector with a view to securing the dismissal of Baha'i employees and also against Baha'i agricultural workers. The Baha'i community was therefore in a state of economic and material insecurity.

66. The authorities indicated that no obstacle was placed in the way of Baha'is in the professional field and any penalty was motivated by illegal

activities, such as espionage. Moreover, all access to public office was conditional on the fulfilment of certain criteria, such as loyalty to the regime.

(e) In the field of justice

67. The Baha'i representatives mentioned the highly negative attitude of judicial bodies towards the Baha'is. In fact, apart from some exceptional cases, the judiciary would never respond positively to complaints lodged by Baha'is. The courts, presupposing the Baha'is to be involved in espionage activities, would infer that the Baha'is had no recognized rights. The Penal Code also denied the Baha'is any rights. For the last three years, the Baha'is had nevertheless been entitled to avail themselves of the services of a lawyer. However, according to the Baha'is, lawyers were subjected to pressures and threats to induce them to refuse any Baha'i client. In the case of Baha'i prisoners, requests by defence counsel for files were normally rejected and the texts of sentences were not communicated.

68. The Ministry of Justice said that no discriminatory treatment had been reported in the judicial sector. It indicated that no judge had the right to reject a complaint and justice was administered in accordance with the legally prescribed rules (particularly respect for the right of defence and the possibility of appealing and being granted a pardon).

(f) Security of person

69. The Baha'i representatives said that, since 1979, 201 Baha'is had been assassinated and 15 others had been reported missing, presumed dead. From January 1990 to June 1993, 43 Baha'is had been arrested and sentenced to various terms of imprisonment because of their beliefs. Seven Baha'is were currently detained and two of these had been sentenced to death (the cases of Mr. Kayvan Khalajabadi and Mr. Bihnam Mithaqi, as mentioned in the communication of 18 August 1994 from the Special Rapporteur E/CN.4/1995/91, para. 64). During his visit, the Special Rapporteur had asked to see those two persons. This request was not met. However, the Baha'i representatives emphasized that, during the last six years, the number of Baha'is arrested because of their religious faith had declined and the executions had apparently been halted.

70. The Ministry of Justice explained that persons were convicted and detained because of offences (criminal acts of espionage, etc.) and not because of their beliefs. It pointed out that freedom of belief was recognized, including freedom to adopt the religion of one's personal choice, and no attack on other faiths in the name of religion was authorized. The authorities indicated that the fact of belonging to the Baha'i community did not entail loss of the rights to which every Iranian citizen was entitled. They also said that they had had to combat small extremist groups that had already existed before the Revolution and whose aim was to eliminate the Baha'is.

2. Situation of the Protestants

(a) In the religious field

(i) Recognition of Protestant religious associations

71. According to the information received, the situation of the Protestant religious associations in respect of official recognition varies. Some associations, particularly those with an ethnic component and name (Armenian or Assyrian), are legally recognized, while those without any ethnic distinction, combining Armenians, Assyro-Chaldeans, Jews, Baha'is and Muslim converts, sometimes face difficulties in obtaining legal recognition of their existence. For example, the Universal Church has not been recognized since the Revolution. These obstacles seem to be linked to the fact that those churches are of an international nature and, in general, are not restricted to a specific ethnic group seeking to preserve its identity. On the contrary, those Protestant associations go beyond the ethnic framework in order to attract all components of society, including Muslims who might convert and join those associations. The representatives of those churches hope that the authorities will rehabilitate their associations.

(ii) Religious activities and places of worship

72. The situation of the Protestants was mentioned by the authorities as an example of the situation of the Christians as a recognized minority which enjoys the rights and even privileges associated with that status and which are not subject to any restrictions other than those provided for by law.

73. The Protestant representatives said that their religious activities were subject to restrictions. With regard to religious publications, including the Bible, they pointed out that the Bible Society of Iran had been closed since February 1990 and the Garden of Evangelism had been in a similar situation since July 1989. They emphasized that the number of Bibles available was inadequate for their congregations and that restrictions were placed on all religious publications. The sale of Bibles was prohibited and 20,000 copies of the New Testament in Persian which had been confiscated in September 1991 had not been returned. With regard to places of worship, attention was also drawn to the closure of the temples of Mashhad (1988), Sari (1988), Kermanshah and Ahwaz (1988), Kerman (1992) and Gorgan (1992). Moreover, only one weekly religious ceremony was authorized at the temple at Orumiyeh.

74. The congregations, and particularly the Muslim converts, were subjected to pressure and close surveillance with a view to inducing them to abandon their religious activities, including even simple religious practices inside their temples. Furthermore, Protestant ministers had been under pressure from the authorities no longer to conduct services in Persian and no longer to allow Muslim converts to take part. However, during discussions with the authorities, Protestant representatives explained the reasons why they could not agree to do that. The St. Peter Qauom-ol-Saltaneh Church in Tehran, the Central Assembly of God Church in Tehran and the Assembly of God Church in Rasht were allowed to conduct services in Persian. The churches with an ethnic name and component (Armenian and Assyrian) officiate in the language of

the community concerned. The other churches, outside Tehran, are being pressured not to use the Persian language and not to accept Muslim converts.

75. According to non-governmental sources, the proportion of Muslim converts, amounting to at least 15,000 persons in the Protestant communities, although constituting a phenomenon of long standing, is increasing, but in a clandestine way. As a general rule, in the light of their interpretation of Islam, the authorities prohibit all forms of proselytism and conversion of a Muslim to another religion, and this explains the limitations placed on the religious activities of the Protestant churches and the closure or restrictions to which some places of worship have been subjected.

76. With regard to church property, in some cases, such as that of the Universal Church, the authorities had confiscated property (apartments, hospitals, institutes for the blind, schools and student hostels) since the Revolution and had frozen bank assets.

77. However, the Protestant representatives stressed that the authorities had begun to improve the situation in some respects, especially since the murder of the Protestant pastors Dibaj, Hovsepian and Michaelian. In particular, the restrictions on travel outside Iran had apparently been lifted for several Protestant pastors.

(b) In other fields

78. In addition to the above-mentioned specific situations of Protestants in the religious field, the latter are also facing the situations reported in the case of the recognized religious minorities, particularly in the educational, professional and judicial fields.

(c) Security of person

79. During his visit, the Special Rapporteur noted the traumatism caused to the Christian and Protestant communities by the murder of three Protestant pastors in 1994: the Rev. Tatavous Michaelian, Acting President of the Council of Protestant Churches of Iran; the Rev. Mehdi Dibaj, Minister of the Church of the Assemblies of God; and the Rev. Haik Hovsepian Mehr, President of the Council of Evangelical Ministers of Iran and Secretary-General of the Church of the Assemblies of God (see the urgent appeal of 3 August 1994 and the communication of 18 August 1994 addressed to the Iranian authorities by the Special Rapporteur in his preceding report E/CN.4/1995/91, paras. 63-65).

80. The Special Rapporteur was able to speak freely for almost five hours at Evin prison with the three persons charged with murder or aiding and abetting in murder: Farahnaz Anami, Batoul Vaferi Kalateh and Maryam Shahbazpoor. These persons, who were interviewed separately, said that they belonged to the Mojahedin organization and were responsible for the murder of pastor Michaelian, which that organization had ordered with a view to striking a blow at the Iranian State, which the international community would condemn as being responsible for those murders. They also indicated that the murders of pastors Dibaj and Hovsepian had been committed by another unit of the Mojahedin organization.

81. The authorities that acknowledged the severe traumatism caused by the murders of the Protestant pastors expressed regret and referred to the measures that had been taken to protect Christian ministers of religion. They drew attention to the investigation that had been undertaken concerning those murders and to the subsequent arrest and trial of the persons responsible, who had been sentenced to terms of imprisonment. They emphasized the responsibility of the Mojahedin organization, inter alia, for the assassination of pastors and for the bomb attack on the Mashhad mosque. They regarded those acts as a carefully planned conspiracy against the Iranian State and an attempt to stir up discord and antagonism between the ethnic and religious communities.

82. The Minister for Foreign Affairs emphasized the fact that, in the absence of proof, the international community should not hold Iran responsible and, in particular, should not condemn it, for those murders. He expressed astonishment at the extent of the international reaction to the murders of the three pastors in contrast to the attitude adopted towards the far more numerous murders of Muslim religious dignitaries after the Revolution.

83. Some members of non-governmental bodies thought that the Iranian State, acting through various groups or persons, had ordered the murders of the Protestant pastors. They pointed out that Rev. Dibaj had been imprisoned since 1986; that an Islamic revolutionary court at Sari had sentenced him to death on 21 December 1993 for apostasy following his conversion to Christianity long ago in 1949; that the court had allowed a period of 20 days' grace for an appeal against its decision; and that Rev. Dibaj had been released under pressure from the international community that had been alerted by Rev. Hovsepian, on 13 January 1994, even though the accusations against him had not been withdrawn. Concerning Rev. Hovsepian, it was pointed out that he was abducted six days after the release of Rev. Dibaj and that he had publicly expressed his opposition to the death penalty to which the latter had been sentenced. Rev. Michaelian had subsequently assumed the presidency ad interim of the Council of Protestant Churches of Iran, which was the body responsible for a community consisting partly of Muslim converts whose number was increasing.

84. According to the information received, the Iranian Government had apparently decided to execute those Protestant leaders in order not only to bring the Mojahedin organization into disrepute abroad by declaring it responsible for those crimes, but also, at the domestic level, partly to decapitate the Protestant community and force it to discontinue the conversion of Muslims, which was regarded as apostasy and was therefore prohibited according to the Government's interpretation of Islam. It was apparently felt that those conversions weakened Islam and, hence, the Islamic Republic of Iran; that would explain the restrictions imposed in the religious field, as well as the executions of the leaders of the Protestant community. In particular, pastor Dibaj and his colleagues had apparently been executed in order not to encourage the Protestant community, through the release of pastor Dibaj, to continue its conversion activities.

85. Members of non-governmental bodies also regarded the trial of the three women accused of the murders as a travesty of justice and indicated that those women had repentantly dissociated themselves from the Mojahedin organization;

some even went so far as to say that those women were also agents of the State who had sacrificed themselves in the latter's interests or to whom the penalty imposed would not actually be applied or would not be of long duration.

III. CONCLUSIONS AND RECOMMENDATIONS

86. The Special Rapporteur has considered not only the legislation in the field of tolerance and non-discrimination based on religion or belief, etc. (see chap. I of this report), but also the implementation of that legislation and the policy in force (see chap. II). He analysed the situation of the recognized religious minorities - non-Muslim and Sunni - (sect. A) and also that of the non-Muslim minorities, namely the Baha'is and the Protestants (sect. B).

87. Before presenting his conclusions and recommendations concerning those minorities in this final chapter, the Special Rapporteur wishes to point out that, during his visit, he expressed concern, in a communication, at the situation of the Grand Ayatollah Rouhani and his son, Javad Rouhani, at Qom; he is still awaiting a reply from the authorities.

88. With regard to the legislation, the Special Rapporteur has indicated that a State religion is not, in itself, in contradiction with human rights. However, this state of affairs - which is consecrated by the Iranian Constitution - should not be exploited at the expense of the rights of minorities and the rights associated with citizenship, which imply that citizens should not be discriminated against on grounds such as, inter alia, religion or belief. From this standpoint, the concept of Islamic criteria as set forth in article 4 of the Constitution should be precisely defined in regulations or legal texts without, however, giving rise to discrimination among citizens.

89. With regard to the situation of the recognized minorities, as provided for in article 13 of the Constitution, the Special Rapporteur wishes to emphasize that it should be clearly understood that what are meant are inherent rights of minorities, not privileges that have been granted. Concerning professional access by members of minorities to the army and the judiciary (arts. 104 and 163 of the Constitution), the Special Rapporteur recommends that a legislative enactment regulating the administration in general should prohibit discrimination against any Iranian citizen regardless of, inter alia, his or her beliefs or the community to which he belongs.

90. Although the situation of the other non-recognized minorities or communities, such as the Baha'is, is covered by articles 14, 22 and 23 of the Constitution in which the concepts of citizen, individuals and persons are used, the Special Rapporteur recommends that a legislative enactment should give clearer recognition to these rights for every citizen, individual or person, regardless, inter alia, of his beliefs or the community to which he belongs.

91. As to conversion, the Special Rapporteur wishes to draw attention to the fact that the right to change one's religion is recognized within the framework of internationally established standards in the field of human rights, including the 1981 Declaration on the Elimination of All Forms of

Intolerance and of Discrimination based on Religion or Belief, and in accordance with the interpretation by the Human Rights Committee.

92. In fact, in its general comment 22 (48) of 20 July 1993, the Human Rights Committee observed that the freedom to "have or to adopt" a religion or belief necessarily entailed the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief. Article 18, paragraph 2, of the International Covenant on Civil and Political Rights bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to religious beliefs and congregations, to recant their religion or belief or to convert (HRI/GEN/1/Rev.1, para. 5).

93. With regard to the implementation of the legislation and policy in force, due to the complexity of the situations, the Special Rapporteur's analysis covers both the recognized minorities and the other non-Muslim minorities.

94. Concerning the recognized non-Muslim religious minorities, namely, the Zoroastrian, Jewish, Assyro-Chaldean and Armenian minorities, although the Special Rapporteur is disturbed by the fact that many members of those minorities have left Iran to the detriment of the country's cultural and ethnic wealth and diversity, he believes that their situation as a minority is otherwise apparently satisfactory except in respect of some specific problems for which the following recommendations have been formulated.

95. In the religious field and particularly in that of religious education, instruction manuals should be compiled in closer systematic collaboration with competent representatives of the minorities in order to ensure that religious beliefs are correctly transcribed and respected.

96. Concerning religious publications and, in general, all publications issued by minorities, the Special Rapporteur endorses the recommendations of Mr. Abid Hussain, the Special Rapporteur on freedom of opinion and expression, who considers that: "Any prior restraint on freedom of expression carries with it a heavy presumption of invalidity under international human rights law. Any institutionalization of such restraint adds further weight to this presumption. In his opinion, the protection of the right of freedom of opinion and expression and the right to seek, receive and impart information would be better served, not by routinely submitting specific types of expression to prior scrutiny, as is currently the case, but rather by initiating action after publication, if and when required" (E/CN.4/1996/39/Add.1, para. 40).

97. In the socio-cultural field, the Special Rapporteur recommends that practical steps should be taken to ensure strict respect for the principle that religious laws should be applied in personal and community affairs, thereby excluding the application of the Shari'a to non-Muslims. With regard to the dress code, the Special Rapporteur emphasizes that the various community traditions and behaviour concerning dress should likewise be respected, but believes that dress should not be turned into a political instrument and that flexible and tolerant attitudes should be shown so that

the richness and variety of Iranian dress can be manifested without coercion. In particular, in the field of education, and especially in minority schools, the Special Rapporteur recommends freedom of dress on the understanding that this should obviously not be exercised in a manner contrary to its purposes.

98. With regard to managerial posts in the educational establishments of minorities, the Special Rapporteur stresses that account should be taken of the special nature of minority schools, which should be reflected in their management.

99. Minorities should collaborate closely in the formulation of educational programmes through written contributions.

100. In the professional field, in addition to the above-mentioned recommendations concerning the administration, the Special Rapporteur, in accordance with internationally recognized standards, draws attention to article 4 of the 1981 Declaration: "All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life." Consequently, he recommends the elimination of the obligation for the owners of grocery shops to indicate their religious affiliation on the front of their shops.

101. In the judicial sector, the Special Rapporteur continues to be concerned about the information received concerning discriminatory treatment on the part of judges who sometimes hand down iniquitous decisions against members of minorities. In this regard, the Special Rapporteur believes that it would be appropriate to apply the programme of advisory services of the Centre for Human Rights (see the preceding report, E/CN.4/1995/91, para. 226). Proper training of judicial and, in general, administrative personnel in human rights, particularly with regard to tolerance and non-discrimination based on religion or belief, would be highly appropriate.

102. The situation of the Sunni Muslim minority does not seem to give rise to problems of a religious nature, except in respect of places of worship. In that connection, the Special Rapporteur recommends that freedom of access to places of worship should be respected and that the Sunnis of Tehran should have a mosque of their own, in accordance with their wishes. On the question of the destruction of places of worship, the community administering them should be consulted before any decision is taken, so that compensatory measures may be automatically planned and implemented.

103. Except for some serious problems in specific fields with regard to which the Special Rapporteur has made recommendations, the situation of the recognized Muslim and non-Muslim minorities appears to be fairly satisfactory.

104. While recalling the fact that these minorities do not want to be exploited politically in a manner contrary to the interests of Iran, the Special Rapporteur, in his capacity as an independent expert, supports their desire for a dialogue with the authorities and, in his capacity as a Special Rapporteur of the Commission on Human Rights, will, in accordance with

his mandate, remain vigilant about developments in their situation in the field of tolerance and non-discrimination based on religion or belief.

105. The Special Rapporteur wishes to express his concern about the other non-Muslim Baha'i and Protestant minorities, while recognizing and welcoming the recent first indications of improvement in some fields.

106. With regard to the Baha'is, the Special Rapporteur hopes that a clear distinction will be drawn between questions of belief and other questions of a political nature if the latter exist or arise. In that connection, it should not be presumed that the entire community has been politicized or is engaged in political or espionage activities. Considering the religious principles of the Baha'i community, the Special Rapporteur believes that there should not be any controls that might, through prohibition, restrictions or discrimination, jeopardize the right to freedom of belief or the right to manifest one's belief. He also wishes to point out that article 1, paragraph 3, of the 1981 Declaration stipulates that: "Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others."

107. For this reason, the Special Rapporteur recommends that the ban on the Baha'i organization should be lifted to enable it to organize itself freely through its administrative institutions, which are vital in the absence of a clergy, and so that it can engage fully in its religious activities. Likewise, all the community and personal property that has been confiscated should be returned and the places of worship that have been destroyed should be reconstructed, if possible, or, at least, should form the subject of compensatory measures in favour of the Baha'i community. The Baha'is should also be free to bury and honour their dead. Concerning freedom of movement, including departure from Iranian territory, the Special Rapporteur believes that the question on religion should be deleted from passport application forms and that this freedom should not be obstructed in any way.

108. While recognizing the freedom to change one's religion, the Special Rapporteur believes that it is essential that any conversion should result from free choice and not from coercion.

109. The Special Rapporteur wishes to emphasize that no discrimination should impede access by the Baha'is to education in higher educational establishments or to employment in the administration and in the private sector.

110. With regard to the judiciary, the Special Rapporteur reiterates the recommendations formulated concerning the recognized minorities.

111. On the subject of security of person, the Special Rapporteur notes with satisfaction that there has been an improvement in the situation with regard to arrests and, apparently, executions. He points out that the physical integrity of any person should not be affected by the person's religion or belief.

112. The Special Rapporteur calls on the Iranian authorities to review or set aside the death sentences passed on Baha'is and to promulgate amnesties or any other appropriate measures to prevent the enforcement of the penalties imposed.

113. Concerning the Protestants, the Special Rapporteur recommends that the legal status of some religious associations, including the Universal Church, should be clarified through rehabilitation.

114. The Protestant communities should be able to engage in their religious activities in full freedom, except where restrictions are provided for in internationally recognized standards. To that end, the Special Rapporteur recommends that the ban on the Bible Society of Iran and on the Garden of Evangelism should be lifted and that freedom to write, print and disseminate religious publications, including the Bible, should be fully respected.

115. On the specific question of places of worship and access thereto, the Special Rapporteur strongly recommends that all bans and restrictions should be lifted. The conduct of services and the language used therein should also be left entirely to the discretion of the ministers of religion concerned, who should be able to engage in their religious activities and choose their mode of expression without being subjected to any pressure.

116. Likewise, with regard to proselytism, conversion and apostasy, the Special Rapporteur reaffirms the need to respect internationally recognized standards in the field of human rights, including freedom to change one's religion and freedom to manifest one's religion or belief, either individually or in community with others and in public or private, barring necessary restrictions provided for by law. In fact, the conversion of Muslims to another religion should in no way give rise to pressures, bans or restrictions on the Protestant community, on the converts or on ministers of religion.

117. The Special Rapporteur notes the severe traumatism caused by the murders of Protestant pastors who, as leaders of their community, were fervent defenders of tolerance and non-discrimination based on religion or belief; he shares the strong feelings to which those murders gave rise. Regardless of the motives for those criminal acts, the Special Rapporteur strongly condemns them and sincerely hopes that such crimes will not recur, so that the Protestant community, as well as all the other communities, can live fully without fear, compulsion or self-censorship.

118. Lastly, the Special Rapporteur welcomes the first signs of an improvement in some fields and in some cases, including freedom of movement, and encourages its extension to all the rights recognized in the various international human rights instruments.

Notes

1/ The Armenian and Assyro-Chaldean minorities, in particular; the Orthodox, Catholic and Protestant minorities as well.

2/ See chap. I.A.3., para. 17, which summarizes the reply by the Minister for Foreign Affairs.